

IN THE MATTER OF THE CLAIM OF
ROSEMARIE RICHARDSON

-against-

THE NEW YORK CITY DEPARTMENT OF EDUCATION, THE NEW YORK CITY
BOARD OF EDUCATION AND THE CITY OF NEW YORK

TO: THE BOARD OF EDUCATION OF THE CITY OF NEW YORK AND/OR
THE DEPARTMENT OF EDUCATION OF THE CITY OF NEW YORK
52 Chambers Street, Room 320, B4
New York, New York 10007

OFFICE OF THE COMPTROLLER OF THE CITY OF NEW YORK
One Center Street
New York, New York 10007

THE CORPORATION COUNSEL OF THE CITY OF NEW YORK
100 Church Street, 5th Floor
New York, New York 10007

TAKE NOTICE that the undersigned claimant hereby makes claim and demand against
you as follows:

1. The name and post office address of the claimant and her attorney is:

a. Rosemaire Richardson
622 East 20th Street, #9B
New York, NY 10009

Itkowitz PLLC
Att. Jay B. Itkowitz
26 Broadway, 21st Floor
New York, NY 10004
646 822 1801
jitkowitz@itkowitz.com

2. The nature of the claim: THE BOARD OF EDUCATION OF THE CITY OF
NEW YORK AND/OR THE DEPARTMENT OF EDUCATION OF THE CITY OF NEW
YORK ("DOE") deprived Ms. Richardson of her constitutional rights pursuant to the 14th
Amendment of the United States Constitution and her statutory rights pursuant to the New York
State Education Law § 3020-a by subjecting Ms. Richardson to disciplinary proceedings and
placing Ms. Richardson on an "ineligible list" thereby stigmatizing her and damaging her liberty

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and property interests all without the benefit of a hearing as required by the United States Constitution and the New York State Education Law.

3. On October 13, 2011, the Office of Special Investigations (“OSI”) received a referral from the Special Commissioner of Investigation (“SCI”) claiming Ms. Richardson, a supervisory employee with tenure, had “falsely documented” that a mother had participated in a telephone conference with the respect to a student’s Individualized Education Program (“IEP”). On November 29, 2011, an OSI investigator notified Ms. Richardson that she was the subject of an investigation without giving any details of the allegations. Subsequently, the OSI investigator conducted an “interview” with Ms. Richardson on December 16, 2011. Ms. Richardson denied the allegations and was not permitted access to her records at the time and the investigator did not at any time check the telephone records maintained by the Department of Education with respect to telephone conferences in an effort to document the phone call that the parent claimed did not occur. To Ms. Richardson’s knowledge, nothing ever occurred after the interview on December 16, 2011. Ms. Richardson retired in or about June or July of 2011. Unbeknownst to Ms. Richardson, OSI continued to process the complaint without notice of any kind to Ms. Richardson by decision dated August 14, 2012 in OSI Case #11-9350, “substantiated” that Ms. Richardson had purportedly “falsely documented” that the subject parent had participated in a telephone conference on June 28, 2011, failed to contact the student’s service provider to schedule the IEP conference, failed to contact the mother of the student to schedule the IEP conference and failed to follow various “timelines” imposed by the NYS regulations and the Education Law. Ms. Richardson did not find out about this administrative action until July 20, 2015. The circumstances by which she discovered this action occurred when she applied for a position with Manual Therapy Center, Inc. on April 23, 2015. As part of the vetting process, her name was submitted for vetting for security clearance with the DOE. Her application for security was denied and it was not until July 20, 2015 that she learned of some unspecified action by the DOE had resulted in her being placed on an “Ineligible List.” In further investigating the circumstances of this event, she checked her file with DOE and discovered that no record of such action was contained in her personnel files. It took a letter from her prior counsel, Neal Rosenberg, dated August 12, 2015 to dislodge the offending letter documenting the administrative action from DOE which he received on or about September 9, 2015 in which he received the determination via email from Mallory Sullivan. Subsequently, Mr. Rosenberg requested that Ms. Sullivan reconsider the determination in issue via letter dated September 29, 2015. By letter dated October 20, 2015, Katherine G. Rodi, Director of the Office of Employee Relations for the DOE, “affirmed” the original findings in the determination dated August 14, 2012. The foregoing actions by the OSI, the DOE, the Board of Education and the City of New York, deprived Ms. Richardson of her constitutional and statutory rights to due process and to defend the allegations before an impartial court and/or hearing officer and the right to confront those who accused her of the charges which were substantiated.

4. The items of damages claimed are as follows: The placement of Ms. Richardson on the Ineligible List without due process has damaged her by costing her a position with Manual Therapy Center, Inc. as well as damage to her reputation and standing in the educational community together with associated emotional distress.

The undersigned claimant therefore presents this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant intends to commence an action on this claim.

Dated: January 11, 2016
New York, New York


ROSEMARIE RICHARDSON

ITKOWITZ PLLC
Attorneys for Claimant

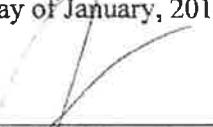
By: 
Jay B. Itkowitz, Esq.
26 Broadway, 21st Floor
New York, New York 10004
(646) 822-1801
jitzkowitz@itzkowitz.com

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)
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) SS.:
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The undersigned being duly sworn, deposes and says that deponent is the claimant in the within action; that she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.


ROSEMARIE RICHARDSON

Sworn to before me
This 11th day of January, 2016


NOTARY PUBLIC

JAY B. ITKOWITZ
Notary Public State of New York
No. 24-5010324
Qualified in Kings County
Commission Expires March 29, 2019

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF NEW YORK)

The undersigned, being duly sworn, says:

I am not a party to this action, am over 18 years of age and am employed at Itkowitz PLLC, 26 Broadway, 21st Floor, New York, New York 10004.

On the 11th Day of January 2016 at 3:20 p.m. I personally served one (1) copy of the annexed Notice of Claim (hereinafter referred to collectively as "the papers") on the Office of the Comptroller of the City of New York at the address below. A proof of such delivery is attached hereto.

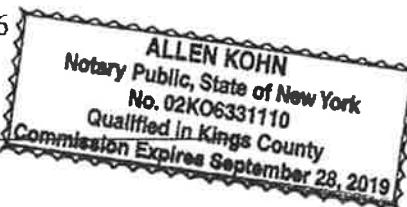
The address referred to above is as follows:

TO: **OFFICE OF THE COMPTROLLER OF THE CITY OF NEW YORK**
One Center Street
New York, New York 10007

SERGEY MARTS

Sworn to before me this
11th Day of January 2016

NOTARY PUBLIC



AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.

The undersigned, being duly sworn, says:

I am not a party to this action, am over 18 years of age and am employed at Itkowitz PLLC, 26 Broadway, 21st Floor, New York, New York 10004.

On the 11th Day of January 2016 at 3:28 p.m., I personally served two (2) copies of the annexed Notice of Claim (hereinafter referred to collectively as "the papers") on the Board of Education of the City Of New York and/or the Department of Education of the City of New York and the Corporation Counsel of the City of New York. A proof of such service is attached hereto.

The address referred to above is as follows:

**TO: THE BOARD OF EDUCATION OF THE CITY OF NEW YORK AND/OR
THE DEPARTMENT OF EDUCATION OF THE CITY OF NEW YORK**
52 Chambers Street, Room 320, B4
New York, New York 10007

THE CORPORATION COUNSEL OF THE CITY OF NEW YORK
100 Church Street, 5th Floor
New York, New York 10007

SAM SMOUHA

Sworn to before me this
12th Day of January 2016

~~NOTARY PUBLIC~~

